



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION II

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NEW YORK, NEW YORK 10007-1866

February 9, 2018

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Re: Freedom of Information Act Request No. EPA-R2-2018-000194 and EPA-R2-2018-000201
Charlestown Mall Site, Utica, New York

Dear Mr. Worsham:

This letter is in reference to your two Freedom of Information Act ("FOIA") requests listed in the caption above, received by the U.S. Environmental Protection Agency on October 5, 2017, in which you requested records concerning the Charlestown Mall Site (the "Site") relating to correspondence to and from EPA and Charlestown Mall of Utica, LLC., Michael J. Cancilla, Capital Prime Properties Two, Inc., or Frank Responte. This letter also confirms our mutual understanding and agreement as discussed in a conference call approximately two weeks ago with you, Richard Greene of the United States Department of Justice ("DOJ"), and myself, regarding the termination of these aforementioned FOIA requests.

As we discussed, EPA's Office of Regional Counsel, Region 2, has concluded its search for records responsive to your request and has provided you with the majority of the requested records including:

- EPA's 2013 Information Request to Consolidated American Industries, Corp;
- A copy of Consolidated American Industries, Corp.'s January 2015 Response to EPA's 2013 Information Request Letter;
- A copy of EPA's June 25, 2010 Notice/Information Request Letter to Charlestown Mall, LLC; and
- Charlestown Mall, LLC's August 12, 2010 Response to EPA's 2010 Notice/Information Request;

Portions of the records you requested are being withheld pursuant to 5 U.S.C. § 552(b)(6). The records are exempt from disclosure because they contain personal information which would be an unwarranted invasion of personal privacy if released. The attached index of withholdings provides further information concerning the withheld records.

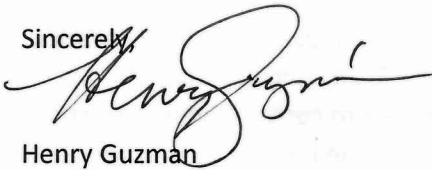
In addition, EPA has also provided you with additional information about the Charlestown Mall Site, including the following:

- EPA's July 2010 Charlestown Mall Site Action Memorandum, which includes a Site map, photo documentation, and a 1998 Asbestos Survey of the Site prepared by Jack Eisenbach Engineering, P.C. for Gaetano Construction;
- EPA's August 2011 Charlestown Mall Site Action Memorandum for a Ceiling Increase; and
- A ZIP File containing EPA's Pollution Reports documenting EPA's response actions at the Site (approximately 35 reports).

As Richard Greene requested of you during our January 2018 conference, because the Site has been referred to DOJ for enforcement, any further requests for the production of documents must be made directly to DOJ. As an indicator of cooperativeness and openness, I understand Richard has already provided you with a CD-ROM of all of EPA'S analytical air sampling results conducted during the implementation of the removal action at the Site. He is also making arrangements for you to view and scan, next month, over 30 boxes of documents EPA collected from the Site. In exchange, you agree to waive your right to appeal the response your two aforementioned FOIA requests.

This letter concludes our response to your two FOIA requests. If you have any questions concerning this response, please contact me.

Sincerely,



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Overnight:

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DESCRIPTION OF WITHHELD FILES/SEGMENTS	DATE	BASIS FOR WITHHOLDING
Charlestown Mall of Utica, LLC. 2008 Federal and New York State tax returns	August 12, 2010	USC §552(b)(6)

An attachment to the August 12, 2010 response by Charlestown Mall of Utica, LLC. to EPA's 2010 Notice/Information Request Letter was redacted pursuant to 5 USC § 552(b)(6) because it contained personal and financial information of individuals and a small business.